

**WILLIAMSBURG CITY COUNCIL
MAY 13, 2004
MINUTES**

The Williamsburg City Council held its regular monthly meeting on May 13, 2004, 2:00 p.m., in the Council Chambers of the Stryker Building.

ATTENDANCE

Present were Ms. Zeidler, Messrs. Haulman, Houghland, Scruggs, and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Nester, Hudson, Serra, Clayton, Yost, Weiler, Walentisch and Assistant City Manager Miller.

CALL TO ORDER

Mayor Zeidler called the meeting to order.

COUNCIL MINUTES

Mr. Houghland Moved Approval of the City Council Minutes Of April 5 and April 8, 2004. The Motion was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

SPECIAL PRIVILEGE

Presentation of Governor's Proclamation-Bike Month Chuck & Bobbe Redding

Mr. Redding, Historic Triangle Bicycle Committee read a portion of the Governor's proclamation for Bike Month and presented it to the Council. He thanked Council for their efforts to make Williamsburg a bicycle-safe city. He presented members with pins and tee shirts.

Mayor Zeidler thanked him and Mrs. Redding for setting a good example for biking.

Special Honor

Mayor Zeidler recognized Mr. Haulman on his induction into the Alpha Chapter of Phi Beta Kappa at the College of William and Mary. It is earned for excellence in teaching and scholarship, and is a selection made by peers.

\$2.00 Per Night Transient Occupancy Tax, *Proposed Ordinance #04-10*

City Council members received a copy of the public notice advertised in the Virginia Gazette and a copy of the proposed ordinance. Mr. Tuttle explained that the required notice was given on the additional occupancy tax, which is to be used for advertising the Historic Triangle. The ordinance is before Council for action.

Mayor Zeidler opened the public hearing.

Sally Craig, 24 Winstler Fax, James City County, Williamsburg Consortium, addressed Council regarding the proposed tax. She was concerned about the increased tax affecting overall costs for special and tour groups that have been booked for several months. She suggested three options: no room tax be passed; tax individuals but not groups; or, grandfather any groups that have already secured rooms. She recently booked a large band group and the new tax will mean an additional \$500.00 of cost to her.

Dick Lake, 303 Capitol Landing Road and a B&B Owner, encouraged Council to pass the ordinance in order to help fund and bolster tourism. He encouraged Council to grandfather the people that have pre-registered and prepaid.

No one else wished to speak. The hearing was closed.

Council members and Mr. Phillips discussed the enabling legislation related to this matter and there being no grandfather clause. Mr. Phillips pointed out that any change must be uniform for all three local jurisdictions (York, James City County, and Williamsburg). The possibility of a rebate in hardship cases was discussed.

Council asked Mr. Phillips to research the possibility of a rebate and discuss this with county attorneys to see if there is a way to mitigate any ill effects during this transition period.

Mr. Scruggs Moved That City Council Adopt Proposed Ordinance #04-10, An Ordinance to Amend Article VII of Chapter 18 of the Williamsburg Code in Order to Impose and Provide for Collection of a \$2.00 Per Room Night Additional Transient Occupancy Tax in Accordance with 58.1-3823 C of the Virginia Code. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

PCR #04-005: Request of the Colonial Williamsburg Foundation for a Special Use Permit for a Parking Master Plan for the Williamsburg Inn and Lodge area.

Reference for this item was Mr. Nester's report dated May 13, 2004. Mr. Nester explained that Colonial Williamsburg Foundation is proposing a Parking Master Plan for the Williamsburg Inn and Lodge area, which will be in lieu of standard parking regulations. Using an overhead map, Mr. Nester explained the layout for the Master Plan. Standard parking regulations require 769 parking spaces. The Parking Master Plan calculates demand based on average and peak use, and proposes 702, and up to 756, parking spaces plus off-site parking of 350+ spaces (Block 44, Green Course Clubhouse, Bruton Heights School Educational Center, and the Visitor Center). The Parking Master Plan includes a Management Plan. Mr. Nester explained that employees would be required to park off-site and during peak events. Staff particularly studied adequate parking for peak use events. They have worked closely with CWF to review the Parking Master Plan. Both staff and the Planning Commission recommended approval with conditions.

Mayor Zeidler opened the public hearing.

Tory Gussman, Colonial Williamsburg Foundation, appreciated the assistance of city staff on this project. The Master Plan approval is sought in order to get accreditation of the Williamsburg Lodge. The ARB and Planning Commission have approved the plan, and CWF hopes to start work during the summer.

During discussion, Mr. Nester explained that when the request for approval of a special use permit for the Parking Master Plan includes a Management Plan, the Management Plan must be implemented as part of the approval of the SUP.

Mr. Tabb Moved that City Council Approve the Special Use Permit for the Williamsburg Inn and Lodge Parking Master Plan, Contingent Upon Eight Conditions As Recommended by the Planning Commission:

- 1. The special use permit approves the plan titled "Williamsburg Inn and Lodge Parking Master Plan, Submission to the City of Williamsburg, March 8, 2004," prepared by Vanasse Hangen Brustlin, Inc.*
 - 2. Modifications to all parking lots shall be in accordance with Article VII. Site Plans, of the Williamsburg Zoning Ordinance.*
 - 3. Modifications to parking lots B and C shall be completed before the issuance of a certificate of occupancy for the Health Evaluation Center.*
 - 4. Modifications to parking lots F and G shall be completed before the issuance of a certificate of occupancy for the new Conference Center.*
 - 5. Modifications to parking lots D and E shall be completed before the issuance of a certificate of occupancy for the North Guest Houses.*
 - 6. A minimum of 702 spaces shall be provided for lots A through G.*
 - 7. The Parking Management Plan, as outlined on pages 6 and 7 of the "Williamsburg Inn and Lodge Parking Master Plan," shall be implemented before the issuance of a certificate of occupancy for the new Conference Center.*
 - 8. The Colonial Williamsburg Foundation shall work with the National Park Service to implement improvements to pedestrian access from Newport Avenue to Block 44.*
- The Motion Was Seconded by Mr. Haulman.*

Mayor Zeidler disclosed that she was an employee of the Colonial Williamsburg Foundation and would abstain from voting.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Houghland, Tabb

No: None

Abstain: Zeidler

PCR #04-006: Request of Williamsburg-James City County Public Schools for a Special Use Permit to Place a Classroom Trailer at Berkeley Middle School, 1118 Ironbound Road.

Reference for this item was Mr. Nester's report dated May 13, 2004. Mr. Nester said that the Williamsburg-James City County Public Schools is requesting a special use permit to place one doublewide classroom trailer (two classrooms) at Berkeley Middle School for a three-year period beginning July 1, 2004. Their application stated that school staff has determined that additional classroom space beyond the existing program capacity of the current facility is required to accommodate the projected student population growth at Berkeley School this fall. Projections indicate that student enrollment will reach 827 students in September 2004, which exceeds the program capacity of 667 by 160 students. Mr. Nester reported that the Planning Commission has recommended approval.

Mayor Zeidler opened the public hearing. No one wished to speak. The hearing was closed.

Council members noted that they had approved the use of trailers six years ago, and stated their concerns about better planning. However, this request was necessary because of increased enrollment.

Mr. Tabb Moved that City Council Approve the Special Use Permit to Allow one Double-Wide Classroom Trailer (two classrooms) at Berkeley School for a Three-Year Period Beginning July 1, 2004, and in Accordance with the Site Plan Dated 3/29/04 and Prepared by AES Consulting Engineers. The Motion was Seconded by Mr. Houghland.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

PCR #04-007 and #04-008: Request of Carlotta Cundari to amend the Zoning Ordinance to allow public or private schools in the LB-1 District with a special use permit; and for a special use permit to locate a "satellite campus" of the Williamsburg Montessori School at 420 Scotland Street, *Proposed Ordinance #04-11*

Reference for this item was Mr. Nester's report dated May 13, 2004. Ms. Cundari, contract purchaser of 420 Scotland Street, is proposing to amend the LB-1 District to allow public or private schools in the LB-1 District with a special use permit, and to request a special use permit to allow the Williamsburg Montessori School to locate a "satellite campus" at 420 Scotland Street, which is zoned LB-1. The Proposed Ordinance would amend the LB-1 District zoning and this would set up the mechanism for a special use permit.

Mr. Nester referred to an overhead map of the property and surrounding area. This property is located in Sub-Area 2 of the Center City Planning Area of the 1998 Comprehensive Plan, is designated as Mixed Use land use, and the property is zoned LB-1 Limited Business Downtown District, as are all surrounding properties. Schools are not presently allowed in LB-1.

Mr. Nester reviewed the Comp Plan recommendation for the LB-1 district. Parking and drop-off are concerns because of the traffic lane that is in front of the proposed school.

Bus service would be provided from the Longhill Road campus. The Planning Commission recommended the following:

PCR #04-007 -Amend the Zoning text: That the Zoning text be amended to allow public or private schools in the LB-1 District with a special use permit, as detailed in Proposed Ordinance #04-11.

PCR #04-008- Special Use Permit: That the special use permit be approved to locate a "satellite campus" of the Williamsburg Montessori School at 420 Scotland Street, with contingencies.

Mayor Zeidler opened the public hearing.

John Tarley, Council for Montessori School, said Ms. Cundari has a history with the school and is currently involved with the school. The school continues to grow and the fourth and fifth grades would be housed at the Scotland Street campus. Mr. Tarley reviewed the proposal for the school. The school would be a complimentary use to the LB-1 District and a great opportunity for students. The conditions imposed are acceptable to the school, including the parking conditions and sanctions for enforcement. He asked that Council follow the Planning staff's recommendation, change the Zoning text, and permit the school to operate.

Jackie Constantino, said it is her job to present the school. Twenty students are enrolled with a maximum of 30. Scotland Street is such a good site for the school. She introduced a video about the school, showing the existing school and how the children work. She pointed out the prepared environment for students and how the students being in an urban environment encourages them to become part of the community. She addressed how the first floor space in the house would be used and how the school would use nearby resources such as the library and theater. They hoped to host other Montessori school visitors from all over America. Parents have been cautioned about the parking restrictions and consequences.

Loretta Hannam, supported the request and encouraged Council approval. She is the grandparent of Montessori students. The school focuses on civil involvement and community service. She believed everyone would benefit.

Dr. James W. Moye, 11020 S.W. 9th Street, Davie, Florida, said he was a school administrator and involved with charter schools. He hopes to relocate to 417 Scotland Street in the future. He did not object to the concept of the school, but objected to the proposed location. Traffic, safety, and liability issues were of concern. If Council approves this request, they would be deviating from their own rules and zoning. Council would be vulnerable if a child is injured or killed. (See Letter Attached)

Jack Moye, 417 Scotland Street, said he is in education and supports the school's philosophy, programs, and the urban program concept. He would be willing to work with the school to find a better location. The real issue besides safety is the question of whether the school is the highest and best use of the property. He asked that the zoning not be amended. The property should stay residential and if not, office, retail or similar. The school is an okay fit, but there is a limited amount of space.

Bobby Hornsby, 2 Kensington Court, represented Mr. and Mrs. Cundari. Montessori is a great school and he believed the school would be a good transitional land use. Taxes will be paid on the property. The second floor could be used for a teacher's residence and that teacher could be in charge of monitoring traffic. Fines are in place for violations of parking. He noted Mr. Joe Hertzler's letter supporting this request. There will be minimal outside changes, and the ARB has approved Mr. Pease's design for the exterior. The school will be a positive use in the downtown area. He asked that Council vote in favor of the request.

Holly Flood, James City County, supported the school's application and said the school was an asset to the community and an incredible resource. Parents run the school and they understand the concerns about parking and the drop-off of students. She asked for Council's support.

Jane Tucker, Chair of the Montessori Board, is a parent of three students. The school can be a good neighbor. Parents are involved and work at the school. Children work to keep up the school and the yard. It is quiet. She was not concerned about safety or traffic issues.

Don Noble, James City County, is a county resident and a volunteer at the Library for twenty years, and said it would be wonderful to have the school so close to the *library*. It would be good to see the students at the library. It was great idea.

Maureen Tracy, city resident, is the mother of a student. She is looking forward to her daughter being able to walk to school as she did years ago in Baltimore.

Cheryl Johnson, James City County, mother of Montessori student, asked for Council's favorable approval.

Bunky Rider, James City County, stated her child will attend Montessori and she works at 427 Scotland Street at GuideStar. There is a unique use mixture for the area and she embraced the idea of children being downtown. This is a terrific opportunity for the students and for the city.

No one else wished to speak. The Mayor closed the public hearing.

Mayor Zeidler noted that Colonial Williamsburg Foundation owns this property. The sale is pending and contingent on this zoning matter. She is an employee of CWF and will recuse herself from voting.

Mr. Scruggs recused himself because he previously put a purchase offer on the house.

Mr. Houghland commented that he was on the Planning Commission when the LB-1 district was formed. He advocated the mixed use for the zoning district, but felt the school was not a good use. While he favored and admired the school, he would not vote for it.

Chief Yost responded to Council that he did not see a problem with school buses on Scotland Street. The Mathew Whaley school buses currently approach that school from Nassau Street.

Mr. Haulman supported this transitional use of the property. There is a cost to the city and impacts on future uses of properties, but there were also advantages. Children and families are lively. The school will be a good neighbor.

Mr. Haulman Moved that City Council Approve Proposed Ordinance #04-11, Allowing Public or Private Schools in the LB- 1 District with a Special Use Permit. The Motion Was seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Tabb

No: Houghland

Abstain: Scruggs, Zeidler

(See Attached Ordinance #04-11)

The Motion Passed.

Mr. Haulman Moved that City Council Approve the Special Use Permit to Locate a "Satellite Campus" of the Williamsburg Montessori School at 420 Scotland Street, Contingent Upon the Four Conditions Recommended by the Planning Commission:

1. Individual student drop-off and pick-up along Scotland Street, North Boundary Street and North Henry Street is not allowed.

2. Individual student drop-off and pick-up using the entrance court to the Prince George Parking Garage is not allowed.

3. School bus drop-off and pick-up in front of 420 Scotland Street is allowed.

4. The special use permit is subject to revocation by City Council if conditions 1 and/or 2 are violated. Revocation of the special use permit shall be subject to the same procedures required for a new application (Secs. 21-45 and 21-46). The waiver of any breach or violation of this permit shall not operate or be construed as a waiver of any subsequent breach or violation.

The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the motion:

Aye: Haulman, Tabb

No: Houghland

Abstain: Scruggs, Zeidler

The Motion Passed.

Budget Adoption

Budget for the Fiscal Year Commencing July 1, 2004, Resolution #04-09

Schedule A--Proposed Budget; Schedule B--Local Tax Levy; Schedule C--Capital Improvements

Council members received a copy of the proposed resolution and schedules. Mr. Tuttle noted that the public hearing on the budget was held at the April Council meeting. He was pleased that no monies were coming from reserves to balance the budget.

Mr. Haulman recognized the hard work on the budget by Mr. Tuttle and Mr. Serra.

Mr. Haulman Moved That City Council Adopt Proposed Resolution #04-09, Budget Adoption Fiscal Year 2004-2005. The Motion Was Seconded by Mr. Scruggs.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

(See Adopted Resolution #04-09)

Increase in Water Rate, Proposed Ordinance #04-08

Council members received a copy of the proposed ordinance. Mr. Tuttle said that this ordinance will bring the water rate up to \$2.60 per thousand of gallons of water used, or a two percent increase. Council concurred that the rate increase was necessary in order to protect the city's watershed.

Mr. Houghland Moved That City Council Adopt Proposed Ordinance #04-08, An Ordinance to Amend Section 19-76(a) of the Code of the City of Williamsburg Governing Water Charges. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

(See Adopted Ordinance #04-08)

REPORTS

Monthly Financial Statement

The Monthly Financial Statement was received and ordered filed.

Mr. Tuttle reported that the Room, Meal, and Sales Tax revenues should come in close to budget for the year.

Monthly Departmental Operating Reports

The Monthly Departmental Reports were received and ordered filed.

City Manager Reports Accepting Certain City Streets into VDOT System, Proposed Resolution #04-08

Reference for this item was Mr. Tuttle's report dated May 3, 2004, which included a copy of Proposed Resolution #04-08. The following streets will be accepted into the city's street system and maintenance funds received from VDOT: Bailey Drive, Pearl Street, Holland Drive, Watson Drive, Iris Street, Lillie Street, and Suri Drive.

Mr. Scruggs Moved That City Council Adopt Proposed Resolution #04-08, A Resolution Accepting Certain Streets Into the City of Williamsburg Street System and Requesting Maintenance Funds From the Virginia Department of Transportation. The Motion was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None (See Adopted Resolution #04-09)

Award of Bid-Pump Station #4 Reconstruction (Merrimac Trail)

Reference for this item was Mr. Tuttle's report dated May 7, 2004, which included a copy of a recommendation letter from Buchart- Horn, Inc.

Steve Martin, using an overhead map of the area, reviewed the report on this matter. This contract is to replace the antiquated pump station located adjacent to the Colonial Pines Apartments. This is the second bid process on this work. One bid was received in the amount of \$390,939. The city will purchase the pump equipment separately at a cost of \$85,003. Staff recommended that the City Manager be authorized to execute the contract.

Mr. Houghland Moved That City Council Authorize the City Manager to Execute a Contract with M& W Construction Corporation for the Pump Station #4 Reconstruction Project Based on a Lump Sum Bid in the Amount of \$390,939. The Motion Was Seconded by Mr. Haulman.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Use of Sidewalks on Prince George Street, Proposed Ordinance #04-12

Reference for this item was Mr. Tuttle's report dated May 5, 2004, which included a proposed ordinance and photographs of Prince George Street sidewalks. Mr. Tuttle said that the use of a portion of the sidewalks for cafes will bring life to the street. This is a consideration to use public sidewalks for a private purpose. The ordinance will be placed on the June agenda if Council wishes. The City will also notify shop owners on the street about the ordinance.

Mr. Houghland suggested that a brass plate be installed in the brick to denote the restricted area for table and chair use. The ordinance states that the type of table and chairs must be approved by the city for compatibility with the area because they will be placed on public property. Council members concurred that the ordinance be considered at the June meeting.

Mr. Haulman Moved That City Council Schedule Proposed Ordinance #04-12 for the June 10, City Council Meeting. The Motion Was Seconded by Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb

No: None

Unfinished Business PCR #03-18 and PCR #13-09: Amendment of the Zoning Ordinance to create the LB-2 Limited Business College District which allows student-oriented housing with SUP and Rezoning of approx. 6.1 acres in the Midtown Planning Area from B-3 to LB-2 (Deferred at Meeting of January 8, 2004).

Mr. Tuttle said that this item was discussed at the May 10 Work Session. Council received Dr. McLaughlin's progress report and agreed to defer a decision on this matter until the August meeting.

Mr. Haulman Moved That City Council Postpone Consideration of PCR #03-18 and PCR #03-19 until the August 12, 2004 City Council Meeting. The Motion Was Seconded By Mr. Tabb.

Recorded Vote on the Motion:

Aye: Haulman, Scruggs, Zeidler, Houghland, Tabb No: None

The meeting adjourned at 4:20 p.m.

Approved: June 10, 2004

Clerk of Council

Mayor